

IN RE: PETITION FOR ZONING VARIANCE
NW/3 Beechwood Avenue
25' NE c/l Midvale Road
400 North Beechwood Avenue
1st Election District
1st Councilmanic District
Richard M. Servary, Sr., et ux
Petitioner

BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 89-334 A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Policy Manual S-4 to allow a corner lot side yard setback of 22 feet in lieu of the required 25 feet, as more particularly described in Petitioner's Exhibit 1.

Mrs. Amy Servary, the wife of Mr. Richard M. Servary, Sr., one of the Petitioners, appeared and testified. Also appearing, on behalf of the Petitioners, was Mr. Sipe of Patio Enclosures, Inc. There were no Protestants.

The Petitioner testified that they wish to enclose an existing screened porch as depicted on Petitioner's Exhibit 1. The current condition of the screened porch is shown in Petitioner's Exhibit 2. The existing porch has been in existence for approximately 32 years and has created no negative impact upon the health, safety or general welfare of the community.

The Petitioner also testified that it would be impractical to relocate this structure to a other position on the site.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove

practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variances were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

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THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 3rd day of March, 1989 that the Petition for Zoning Variance from Policy Manual S-4 to allow a corner lot side yard setback of 22 feet in lieu of the required 25 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restriction:

- (1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

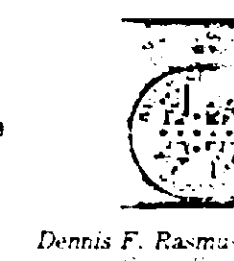
JRH:mmm
cc: Peoples Counsel

-3-

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

* Robert Haines
Zoning Commissioner

March 1, 1989



Mr. and Mrs. Richard Servary, Sr.
400 North Beechwood Avenue
Catonsville, Maryland 21228

RE: Petition for Zoning Variance
Case No. 89-334 A

Dear Mr. and Mrs. Servary:

Enclosed please find the decision rendered on the above captioned case. The Petition for Zoning Variance has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner

JRH:mmm
att.
cc: Peoples Counsel

PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 89-334-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section Policy Manual S-4 to allow a corner lot side yard setback of 22 ft. in lieu of the required 25 ft.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

1. This area lends itself to the utilization of existing facilities and land without interruption or major alterations to the present floor plan patterns.
2. Insulate and reduce heating bills.
3. Reduce outside noise.
4. A place to sit out and not be concerned with the weather, bugs, mosquitoes, flies, etc.
5. Approve appearance of house.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I do solemnly declare and affirm, under the penalties of perjury, that I am the legal owner(s) of the property which is the subject of this Petition.

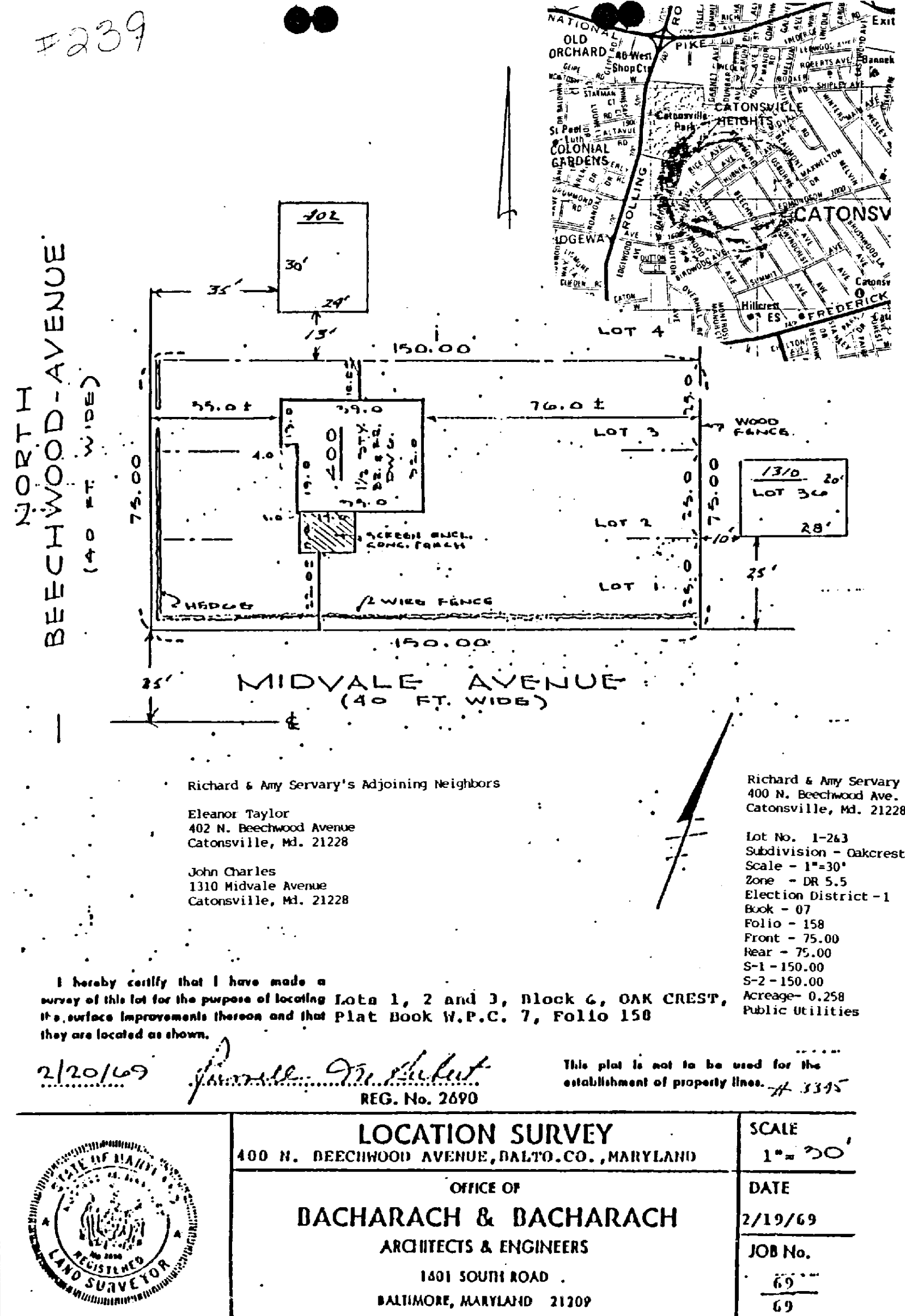
Contract Purchaser: Richard M. Servary, Sr.
(Type or Print Name)
Signature: *Richard M. Servary*
Address: *400 N. Beechwood Ave.*
City and State: *Catonsville, Md.*

Legal Owner(s): Amy Servary
(Type or Print Name)
Signature: *Amy Servary*
Address: *400 N. Beechwood Ave.*
City and State: *Catonsville, Md.*

Attorney for Petitioner: Glen Burnie, Md. 21061
(Type or Print Name)
Signature: *Glen Burnie*
Address: *224 S. Avenue N.W.*
City and State: *Washington, D.C.*

ORDERED By The Zoning Commissioner of Baltimore County, this 1st day of March, 1989, at 2 o'clock P.M.

J. Robert Haines
Zoning Commissioner of Baltimore County.

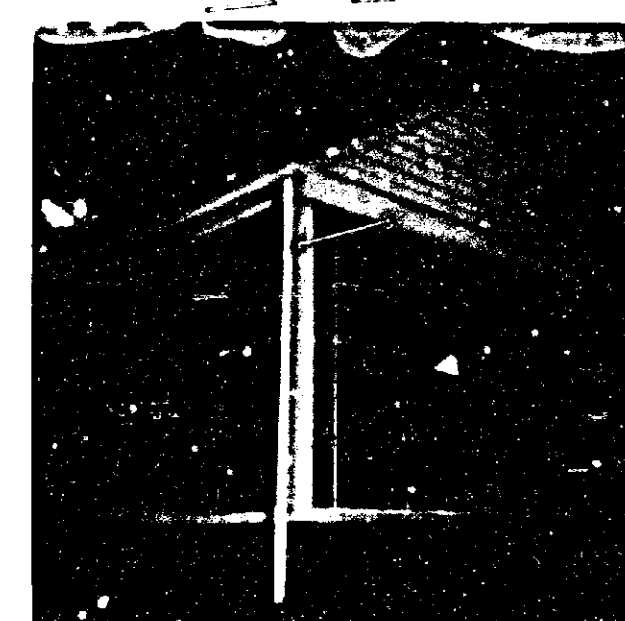


LEGAL DESCRIPTION OF PROPERTY

Beginning on the Northwest side of Beechwood Avenue, 40' wide, at the distance of 25', Northeast of the centerline of Midvale Avenue. Being lot No. 1, 2 and 3, in the subdivision of Oakcrest. Book 07, Folio 158. Also known as 400 N. Beechwood Avenue, in the 1st election district.

DESCRIPTION DOES NOT MATCH PLAT.

PETITIONER(S) EXHIBIT (2)



OVERHANG: 1/4
HEIGHT PAD TO HOUSE: 8'4"

SKETCH

PETITIONER'S EXHIBIT 3

NOTES: Tear out existing screen wood strips 4 posts. Install two new wood posts. Cap front concrete edge w/aluminum cap iron.

MEASURE MAN DATE MEASURED:

ELECT:	NO	YES	WINGS:	NO	YES	FLOOR SURFACE:	
TEAR OUT:	NO	YES	ELEVATED:	NO	YES	TYPE OF ROOF:	
HAUL AWAY:	NO	YES	MOUNTING SURFACE:				
BUG PROOF:	NO	YES	MIN. INSTALLERS:	1	2	3	PRE-CUT NO YES
BUG PLUGS:	NO	YES	WALK OR STEPS MEASUREMENT:				
BRACE FORM:	NO	YES					

89-334-A

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
21st day of December, 1988.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Petitioner Richard M. Servary, Sr. Received by: James E. Dyer
Petitioner's Attorney _____ Chairman, Zoning Plans
Advisory Committee

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

February 6, 1989

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

Mr. & Mrs. Richard M. Servary, Sr.
400 N. Beechwood Avenue
Catonsville, MD 21228

RE: Item No. 239, Case No. 89-334-A
Petitioner: Richard M. Servary, Sr., et ux
Petition for Zoning Variance

Dear Mr. Servary:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosure

cc: Patio Enclosures, Inc.
224 8th Avenue, N.W.
Glen Burnie, MD 21061

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554

January 17, 1989



Dennis F. Rasmussen
County Executive

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for item numbers 199, 205, 209, 237, 238, 239, 240, 241, 243, 244, 245, 246, and 247.

Michael S. Flanagan
Michael S. Flanagan
Traffic Engineer Associate II

MSF/lw

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reincke
Fire Chief

December 29, 1988

J. Robert Haines, Zoning Commissioner
Office of Planning & Zoning
Baltimore County Office Building
Towson, Maryland 21204

Re: Property Owner: Richard M. Servary, Sr., et ux

Location: NWS/ Beechwood Avenue, 25' NE of c/l of Midvale Avenue
400 N. Beechwood Avenue
Item No.: 239 Zoning Agenda: Meeting of 12/20/88

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- (X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
- () 6. Site plans are approved, as drawn.
- () 7. The Fire Prevention Bureau has no comments at this time.

REVIEWED *Paul H. Reincke*
Fire Chief
Special Inspection Division

NOTED &
APPROVED: _____
Fire Prevention Bureau